THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETTION NO.25182 OF 2006

BETWEEN:

K.Bangar Raju son of Appalakonda

…Petitioner

vs.

The Commissioner of Endowments, Hyderabad and another

..Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETTION NO.25182 OF 2006

ORAL ORDER

The petitioner assails the tender-cum-auction notification issued on 20-11-2006 by the 2nd respondent scheduling the auction for the No.2 Canteen, down hills of Simhachalam, Visakhapatnam District, on 06-12-2006.

The petitioner participated in a public auction held on 29-07-2003 and was granted a lice for the No.2 Canteen for a period of two(2) years. When an auction was again scheduled in July-2005 the petitioner submitted a representation for extension of his licence, agreeing to pay enhanced licence fee. The petitioner was factually permitted to continue in the premises for a further period of one year. This year again the petitioner represented to the 2nd respondent and states that the 2nd respondent had orally agreed to continue the licence of the petitioner on enhanced rates @ 33 1/3%, over the licence fee paid in the year 2005. According to the petitioner, the 2nd respondent also agreed to extend the licence period for three years, up to 2008. By a receipt dated.13-08-2006 the petitioner states to have paid the enhanced licence fee. As the notification has been issued putting the premises to auction, the petitioner is before this Court seeking an appropriate relief.

The A.P. Charitable & Hindu Religious Institutions & Endowments Immovable Properties and other rights (Other than Agricultural lands) Leases and Licenses Rules 2003 (for short "the Rules") were issued in G.O.Ms.No.866 Revenue (Endowments-I)

Department dated.08-08-2003 by the State Government exercising power under Section.82 read with Sub-section.(1) of Sec.153 of the A.P. Charitable & Hindu Religious Institutions & Endowments Act,1987.

Rule.3 of the Rules enacts that all leases or licenses shall be by public auction and Rule.4(2) ordains that no lease of immovable property shall be granted for a period exceeding three(3) years. In the light of the statutory position the promise said to have been extended by the 2nd respondent to the petitioner to continue the licence beyond 2006 and on enhanced lease amount @ 33 1/3% over the previous lease amount, is a promise that has no authority. The 2nd respondent has no manner of jurisdiction. Had he granted any such extension, the 2nd respondent would have been susceptible to disciplinary auction and the 1st respondent obligated to initiate such disciplinary action. However, even if the petitioner's assertions were to be true, the 2nd respondent appears to have seen better reason than when he had promised to the petitioner and has rightly recanted on the illegal promise made to the petitioner. In accordance with the statutory rules is the publication notified. No mandamus can issue to interdict a lawful order in exercise of legitimate authority.

There are no merits. The writ petition is accordingly dismissed at the stage of admission after hearing the learned counsel for the petitioner and the learned Government Pleader for Endowments. No order as to costs.

_____

GODA RAGHURAM,J

4th DECEMBER 2006

***TSNR**